

28 August 1956


MEMORANDUM FOR THE RECORD

Subject: Federal Employees' Security Program

1. In newspaper accounts of the American Bar Association meeting in Dallas, Texas, a statement by Assistant Attorney General Doub was quoted that new regulations were being promulgated by the Department of Justice to limit the Federal Employees' Security Program to sensitive positions. I called Mr. J. Walter Yeagley, Acting Chief of the Internal Security Division, Department of Justice, to ask him if they were drafting such regulations and, if so, whether they would have any effect on the authorities of this Agency. Mr. Yeagley said that Mr. Doub's statements were a little premature, and that while they had had discussions arising out of the case of Cole v. Young, they had no specific proposals for the security program as a whole. I said we had studied Cole v. Young and felt we would maintain our policy that all positions in this particular Agency were sensitive within the contemplation of that case. Mr. Yeagley said insofar as they had thought about the matter at all, they would agree in the case of CIA.

2. I said my only concern was that a new regulation might impair the Director's authority under Section 102(c) of the National Security Act of 1947. Mr. Yeagley said he had not considered this point and was glad I had called as they had no intention of impairing any such authority. He asked for the citation of the Director's authority and said he would call it to the attention of his staff who were working on this problem.

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Lawrence R. Houston
General Counsel

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Remarks:

MEMORANDUM FOR: THE DEPUTY DIRECTOR

Attached is a brief of the Cole v. Young case and our views of its effect on Agency authorities. Generally we conclude that the case does not directly affect the Agency.

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 Deputy General Counsel

31 July 1956
(DATE)

101 REPLACES FORM 10-101
WHICH MAY BE USED.

(47)

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8-5123

31 July 1956

MEMORANDUM FOR: Deputy Director of Central Intelligence

SUBJECT: Cole v. Young, U. S. Supreme Court,
11 June 1956

1. Subject case is the one in which the Supreme Court in effect held that nonsensitive positions were not subject to Executive Order 10450.

2. Attached is a detailed brief of the case indicating the specific facts and giving excerpts of the holding.

3. You had queried whether this opinion would have any effect on the Agency's authorities. In view of the fact that the Director has declared all positions in the Agency to be sensitive, the decision would have no basic effect on our authority to deal with personnel under the provisions of Executive Order 10450.

4. With respect to the Director's authority under 102(c), I believe that the case will have no direct effect since the criteria under that Section is broader than national security since the words "national interest" are used. If there were an attempt by a disgruntled employee to assert that the Director had used his authority in an arbitrary and capricious manner and if such an employee further asserted that the basis for termination was not in the security field, it is likely that this case would be cited. However, there is little likelihood in our opinion that such an argument would have much weight unless the Director had in fact been arbitrary and capricious.

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Deputy General Counsel

Attachment

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